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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/406,486	09/27/1999	YOICHIRO SAKO	450100-02102	1659

20999 7590 08/23/2002

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EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/406,486

Applicant(s)

SAKO ET AL.

Examiner

Firmin Backer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This is in response to an amendment file on June 20th, 2002 for letter for patent filed on September 27, 1999 in which claims 1-21 were presented for examination. In the amendment, claims 1,14-16,18 and 20 have been amended, no claim has been canceled, and claims 22 has been added. Claims 1-22 are pending in the letter.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenthal (U.S. Patent No. 6,148,301).

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3. As per claims 1, Rosenthal teaches an information distributing method (*information distributed system 10*) for distributing information subjected to billing (*see abstract, fig 2, column 3 lines 36-52*), characterized in that an amount of money billed every time the information is distributed once is determined depending on the number of times that the information is distributed within a predetermined time period (*see abstract, figs 1-3, column 5 lines 56-6 line 16*).
4. As per claims 2-8, Rosenthal teaches an information distributing method wherein the time period is one from a predetermined time point to a current time point, a definite term from a predetermined time point, one from an optionally set time point to a current time point or a second optionally set time point, a definite term down to the current time point and until an optionally set time point (*see column 6 lines 59-7 line 10*).
5. As per claims 9, 10, Rosenthal teaches an information distributing method wherein when the number of times of distribution reaches a previously set number of times or more, the amount of money billed for the information is raised or reduced (*see column 6 lines 59-7 line 10*).
6. As per claims 11, Rosenthal teaches an information distributing method wherein the amount of money billed for the information is determined depending on a value obtained by substituting the number of times of distribution for a previously set function (*see column 8 lines 16-47*).

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7. As per claims 12, 13, Rosenthal teaches an information distributing method wherein the information is audio information, video information, game information or book information, or any combination of them distributed by using wireless communication or wired communication (*see column 4 lines 25-45*).

8. As per claims 14, 15, Rosenthal teaches an information distributing system (*information distributed system 10*) for distributing information subjected to billing (*see abstract, fig 2, column 3 lines 36-52*), characterized in that an amount of money billed every time the information is distributed once is determined in a composite manner depending on the respective numbers of times that the information is distributed in a plurality of set terms (*see abstract, figs 1-3, column 5 lines 56-6 line 16, see also column 1 lines 61-2 line 9*).

9. As per claims 16, 18, 20 and 22, Rosenthal teaches an information distributing system (*information distributed system 10*) for distributing information subjected to billing (*see abstract, figs 1-3, column 5 lines 56-6 line 16*), comprising an information distributing means for distributing the information to a user (*subscriber/recipient, 14*) and a transaction means comprised of a means for counting a number of distribution of the information to a user and a means for controlling a billing system depending on the number of distribution counted (*see abstract, fig 2, column 3 lines 36-52*) also (*see column 9 line 5-17*).

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10. As per claims 17, 19, 21, Rosenthal teaches an information distributing system wherein the transaction means comprises a means for comparing the counted distribution number with a reference value (*see column 9 line 5-17*).

Response to Arguments

11. Applicant's arguments filed June 20th, 2002 have been fully considered but they are not persuasive.

a. Applicant argues that the prior art (*Rosenthal*) fails to teach amount of money billed every time the information is distributed once is determined depending on the number of times that the information is distributed within a predetermined time period that the information has been distributed to the user. Examiner respectfully disagrees with applicant's characterization of Rosenthal's inventive concept. Rosenthal clearly teach that the information provider is billed based on the number of time each document is request. Furthermore, Applicant seems to argue that the document in Rosenthal's inventive concept is request but not distributed. However, in paragraph 6 lines 5-16, Rosenthal teach the transmission of each document to the subscriber. This is to inferred that document is requested and in turn transmitted to the request which implies a distribution process.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

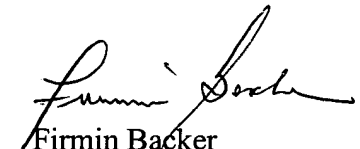
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammel can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.


Firmin Backer
August 20, 2002


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600